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July 24, 2023

VIA ECF

Honorable Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square, Room 2201
New York, NY 10007

Re: *Kitchen Winners NY Inc. v. Rock Fintek LLC*, Case No. 22-cv-05276-PAE
Joint Status Update

Dear Judge Engelmayer:

This firm represents defendant and counterclaim/third-party plaintiff Rock Fintek LLC. We write jointly with the other parties pursuant to the Court's July 10, 2023 and July 17, 2023 Orders (ECF Nos. 91 & 92) to provide a further status update regarding the sampling, inspection and disposition of gloves being held in various Medline Industries warehouses.

As of the date of this letter Rock Fintek, the Adorama Parties,¹ and the JNS Parties² have visited Medline warehouses in Grayslake, Illinois and Jeffersonville, Indiana where the parties conducted inspection and sampling efforts. All parties intend to conduct additional inspection and sampling efforts at Medline's Romulus, Michigan warehouse, and the Adorama Parties and JNS Parties intend to visit the Montgomery, New York warehouse, along with any other warehouses that Rock Fintek indicates that it will inspect.

The Adorama Parties and JNS Parties attempted to schedule a visit to the Montgomery, NY warehouse for July 24, 2023, but Medline indicated that it could not accommodate that date. The parties are now attempting to find alternate dates that would work for remaining warehouse visits. All parties are available to conduct further warehouse visits both this week and the week of August 14, 2023, subject to Medline's availability.

¹ Kitchen Winners NY Inc., Adorama Inc., and Joseph Mendlowitz.

² JNS Capital Holdings, LLC and Joel Stern.

Position of the Adorama Parties and JNS Parties on Disposition of Gloves:

The Adorama Parties and JNS Parties no longer have any objection to Ascension disposing of the gloves housed in the Grayslake and Jeffersonville warehouses, or at any other warehouse, *other than* Montgomery and Romulus. The Adorama Parties and JNS Parties have no objection to Ascension disposing of the gloves in Montgomery and Romulus upon the completion of inspection and sampling efforts at those warehouses.

The Adorama Parties and JNS Parties agree that upon disposition of gloves that they no longer seek to inspect, as detailed above, they will not claim any spoliation of evidence with respect to such gloves. The Adorama Parties and JNS Parties, however, are reserving their right to dispute the provenance of the gloves being held by Medline, as well as the accuracy of Medline's records, the number of gloves stored at each location, and the sufficiency and/or adequacy of the sampling conducted by Rock Fintek. Indeed, during the inspection of the Grayslake and Jeffersonville warehouses, the Adorama Parties and JNS Parties observed that the warehouses did not have anywhere near the same number of gloves as represented by Medline on the documentation that it provided. Of the thirty (30) pallets of gloves that the parties requested Medline make available for inspection at the Jeffersonville warehouse, ten (10) of those pallets evidently did not exist.

Position of Rock Fintek on Disposition of Gloves:

Rock Fintek has no objection to Ascension disposing of the gloves for which inspection and sampling has either been conducted or is not being sought. Rock Fintek disagrees with the other parties' positions regarding the accuracy of Medline's documentation as to the glove counts and reserves all rights in that regard.

Respectfully submitted,
/s/Phillip Rakhunov
Phillip Rakhunov

cc: All counsel (via ECF)

The Court appreciates this update and expects that the parties will continue to work productively to complete the inspection of the gloves at issue. SO ORDERED.


PAUL A. ENGELMAYER

United States District Judge

July 25, 2023